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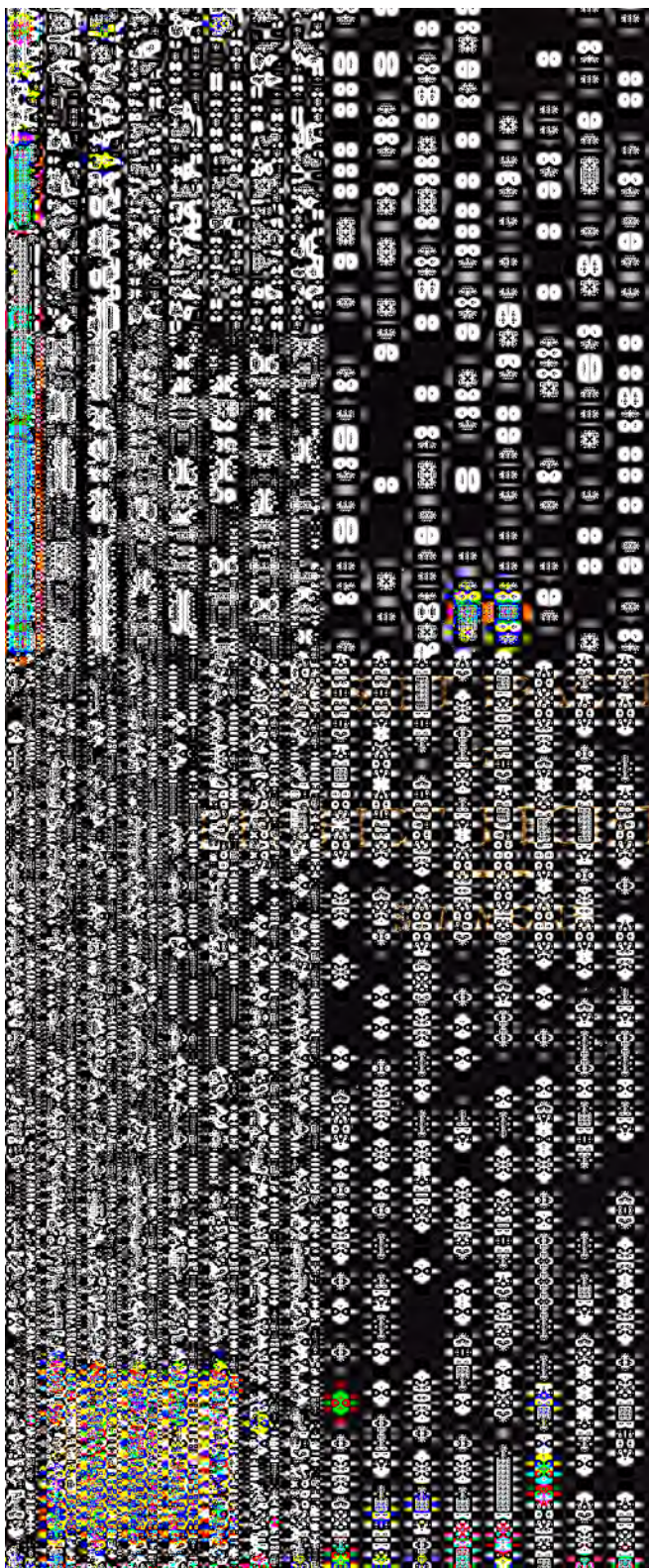
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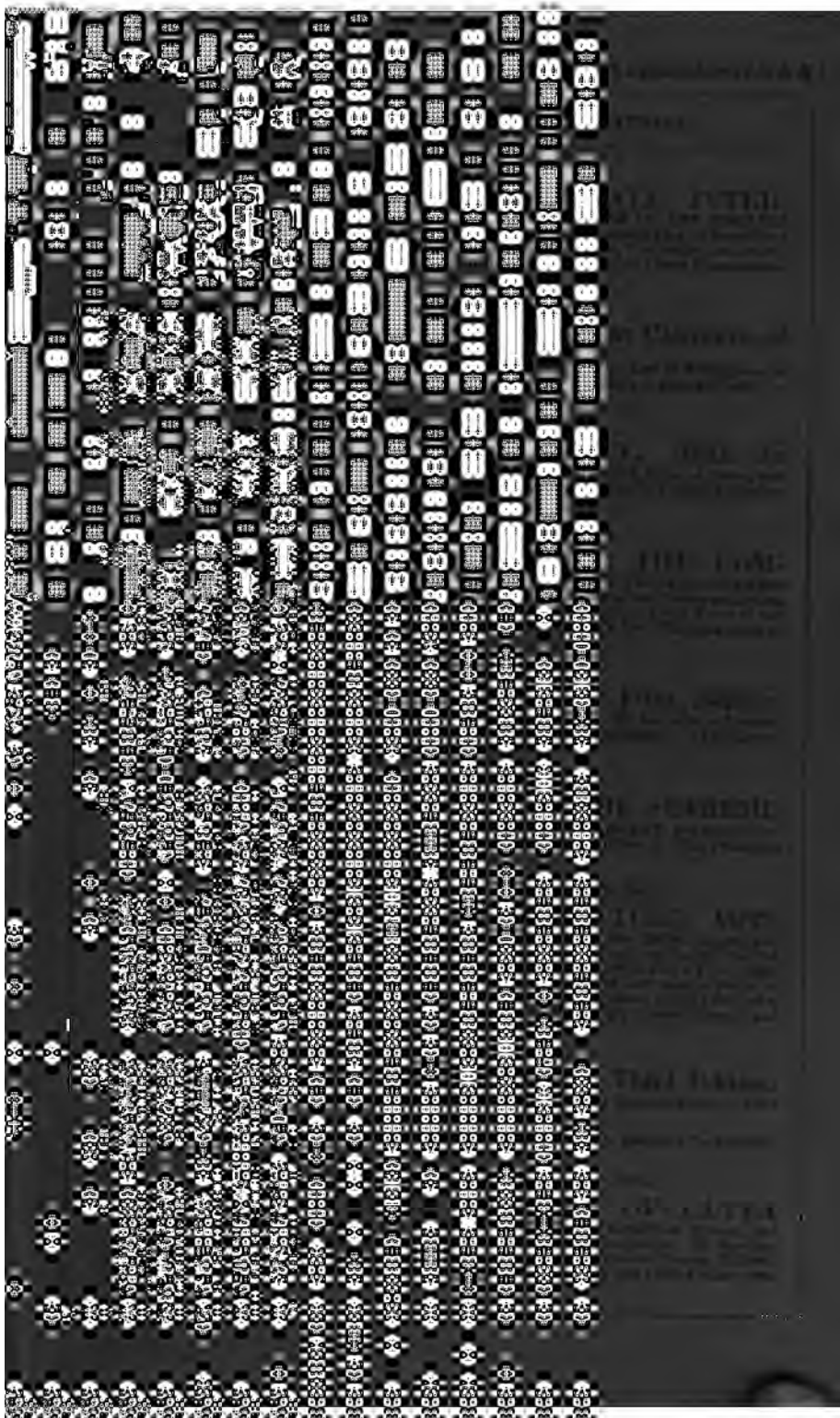
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THE
PRESENT PRACTICE
IN
DISTRICT REGISTRIES.

THE
PRESENT PRACTICE
IN
DISTRICT REGISTRIES
OF THE
COMMON LAW DIVISION
OF
The High Court of Justice.

BY
FRANK SIMMONS.



LONDON:
STEVENS AND HAYNES,
Law Publishers,
BELL YARD, TEMPLE BAR.
1881.

LONDON :
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PREFACE.

THIS little book is intended for the use and assistance of those, who, having had but little experience in Common Law actions, are comparatively ignorant of the practice of the Common Law Division, however well they may be versed in the theory of Common Law.

It is intended more for use in practice than for reading, but may possibly be found useful in the latter, as well as the former capacity. And although intended merely as a treatise on District Registry Practice, its forms are applicable, with a few slight alterations, to London, as well as Country Practice.

The forms have been taken from those met with in actual practice, and from the appendices to the Rules of Court from time to time made, and great care has been taken to render them correct.

The plan of sketching out a cause of action, and

giving copies of all the proceedings in full, is adopted to render the forms given useful as precedents.

It is difficult to avoid faults, but care has been taken to render the work as accurate and reliable throughout as possible.

The first part is devoted to the proceedings always taken in an ordinary action : the second to the practice and forms relating to some of the sundry miscellaneous proceedings sometimes required in the course of an action.

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THE PRESENT PRACTICE
IN
DISTRICT REGISTRIES
OF THE
COMMON LAW DIVISION OF THE
HIGH COURT OF JUSTICE.

INTRODUCTION TO PART I.

THIS portion of the book being devoted to the proceedings in an ordinary action for debt, a cause of action is described at the commencement, and the action is followed step by step from the issuing of the writ to the levying of the execution to recover the debt and costs adjudged.

PART I.

PROCEEDINGS IN AN ORDINARY ACTION FOR DEBT.

CAUSE OF ACTION.

A. Z. on the 29th September, 1880, drew a Bill of Exchange on C. D. at three months' date for £100 for value received, and subsequently indorsed the same to A. B. This bill, of course, became due on the 1st January, 1881, and was dishonoured, and A. B. on the 10th January, 1881, commenced proceedings against C. D. to recover £100 2s. 9d., being the amount of the bill with interest from the due date to the issuing of the writ at 5 per cent.

The following is the procedure :—

A. B. on the 10th January, 1881, issued a Writ of Summons against C. D.

WRIT OF SUMMONS.

The following is the form :—

1881. B. No. 100.

In the High Court of Justice,
Queen's Bench Division,
Bristol District Registry.

Between A. B., plaintiff.
and
C. D., defendant.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith,

To C. D. of Clifton, in the city and county of Bristol, Coal Merchant.

We command you that within eight days after the service of this writ on you, inclusive of the day of such service, you cause an appearance to be entered for you in an action at the suit of A. B.

And take notice, that in default of your so doing, the plaintiff may proceed therein and judgment may be given in your absence.

Witness, Roundell Baron Selborne, Lord High Chancellor of Great Britain, the 10th day of January, in the year of Our Lord one thousand eight hundred and eighty-one.

N.B.—This writ is to be served within twelve calendar months from the date thereof, or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterwards.

A defendant who resides or carries on business within the above-named district, must enter an appearance at the office of the Registrars of that District, situate at St. Werburgh's Chambers, Small Street, Bristol.

A defendant who neither resides nor carries on business within the said district, may enter an appearance either at the office of the said Registrars or at the Central Office, Royal Courts of Justice, London.

On the back of the writ was the following indorsement:—

The Plaintiff's claim is £100 2s. 9d. for principal and interest due to him as the indorsee of a Bill of Exchange. The following are the particulars:—

1880, 29th Sep.	Bill of Exchange of this date drawn by A. Z. on and accepted by defendant at 3 months and indorsed by A. Z. to plaintiff for	£100	0	0
	Interest . .	0	2	9
		£100	2	9

And the sum of £3 3s. (or such sum as may be allowed on taxation) for costs. If the amount claimed is paid to the plaintiff or his solicitor (or agent) within four days from the service hereof, further proceedings will be stayed.

The plaintiff also claims interest on £100 of the above sum at the rate of £5 per centum per annum from the date of this writ until payment or judgment.

This writ was issued by E. F., of Albion Chambers, in the city and county of Bristol, whose address for service is Albion Chambers, Bristol, aforesaid, solicitor for the said plaintiff, who carries on business as a coal merchant at King's Terrace in the city and county of Bristol.

This writ was served by me at Clifton aforesaid on the defendant A. B., on the 11th day of January, 1881.

Fee paid on } Indorsed the 11th day of January, 1881.
sealing, 5s. } G. H., Albion Chambers, Bristol.

NOTE.—A writ is issued by delivering the same and one copy thereof to the proper officer

WRIT OF SUMMONS.

at the District Registry Office (the copy being first signed by the plaintiff's solicitor at the foot of the front) who seals them with the seal of the Court, fills in the number at the top, and returns the original to the plaintiff's solicitor.

Order 5, Rules 6 and 7.

If a defendant resides and carries on business out of the district, an address for service in London, as well as an address for service within the district, must be inserted. The London address must be within three miles of the Central Office.

Order 4, Rule 1.

The writ was served on the defendant on the 11th day of January, 1881.

NOTE.—Service of a writ is effected by delivering a copy of the writ to the defendant, and at the same time producing to him the original. The person who serves it must within three days from the date of service indorse a memorandum of such service at the foot of the original writ, otherwise the plaintiff cannot proceed unless the defendant should appear.

Order 9, Rule 13.

An affidavit of the service was made on the 16th day of January, 1880.

The following is the form :—

(Title.)

I, G. H., of Albion Chambers, in the city and county of Bristol, clerk to Mr. E. F. of the same place, solicitor, make oath and say :—

1. That I did on the 11th day of January, 1881, personally serve C. D. the above-named defendant at Clifton in the city and county of Bristol with a true copy of a Writ of Summons which appeared to me to have been regularly issued out of and under the seal of the Queen's Bench Division of her Majesty's High Court of Justice at the suit of the above-named plaintiff

against the above-named defendant and dated the 10th day of January, 1881, and marked 1881, B. No. 100, to which said writ and copy a memorandum was subscribed, and due indorsements were made thereon pursuant to the statute in that case made and provided.

2. And I further say that I did afterwards on Tuesday, the 11th day of January, 1881, indorse on the said writ the day of the week and month of such service, according to the statute in that case made and provided.

*Sworn at the city and county of }
Bristol, this 16th day of January, } G. H.
1881. Before me,*

Fee paid on } I. J., a commissioner to administer oaths in the
filing, 2s. } Supreme Court of Judicature in England.

This affidavit is filed on behalf of the plaintiff.

The affidavit of service was filed by the plaintiff's solicitor on the 16th day of January, 1881.

NOTE.—Affidavits and other documents are filed by taking the same to the District Registry Office and delivering them to the proper officer.

Affidavits must not be sworn before the plaintiff's or defendant's own solicitor or his clerk.

Rule 142. Hilary Term, 1853.

The defendant on the 19th day of January, 1881, entered an appearance to the writ.

The following is the form :—

(Title.)

Enter an appearance for C. D., the defendant in this action.

Dated the 19th day of January, 1881.

K. L., of Albion Chambers, in the city and county of Bristol, solicitor for the defendant.

Fee paid on enter- } *The said defendant requires a statement of*
ing, 2s. } *claim to be delivered.*

APPEARANCE.

NOTE.—An appearance is entered by delivering a memorandum in the above form and a duplicate thereof to the proper officer at the District Registry Office, who seals them with the seal of the Court and returns the duplicate to the defendant's solicitor.

Order 12, Rule 6A.

If the defendant does not state in his appearance that he requires a statement of claim to be delivered, he must, within eight days from the date of the entry of appearance, deliver his statement of defence.

Order 22, Rule 2.

The defendant's solicitor on the 19th day of January, 1881, sent the sealed duplicate memorandum of appearance to the plaintiff's solicitor with the following notice :—

(Title.)

Take notice that I have this day entered an appearance at the office of the Registrars of the Bristol District Registry for the defendant C. D. to the writ of summons in this action. The said defendant requires delivery of a statement of claim.

Dated the 19th day of January, 1881.

K. L., of Albion Chambers, in the city and county of Bristol, solicitor for the defendant.

To the plaintiff or his solicitor.

NOTE.—Service of pleadings, notices, orders, rules, and other proceedings, must be effected before 6 P.M., except on Saturdays, and on that day before 2 P.M. Service effected after 6 P.M. on any week day except Saturday will be deemed to have been effected on the following day. Service effected after 2 P.M. on Saturday will be deemed to have been effected on the following Monday.

Order 57, Rule 8.

STATEMENT OF CLAIM.

7

The plaintiff's solicitor on the 25th day of January, 1881, delivered the plaintiff's statement of claim to the defendant's solicitor, as follows :—

1881. B. No. 100.

In the High Court of Justice,
Queen's Bench Division,
Bristol District Registry.

Writ issued 10th day of January, 1881.

Between A. B., plaintiff,
and
C. D., defendant.

STATEMENT OF CLAIM.

Dated and delivered the 25th day of January, 1881, by Mr. E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

1. A. Z., of 1, King's Place, in the city and county of Bristol, coal merchant, on the 29th day of September, 1880, drew a Bill of Exchange upon the defendant for £100, payable to the order of the said A. Z. three months after date, and the defendant accepted the same.
2. A. Z. indorsed the said bill to the plaintiff.
3. The said bill became due on the 1st day of January, 1881, and the defendant has not paid it.

The plaintiff claims—

1. The sum of £100 2s. 9d., being the amount of the said bill with interest to the date of the issuing of the said writ.
2. Interest on the said sum of £100 from the 10th day of January, 1881, until payment or judgment.

The plaintiff proposes that this action shall be tried at Bristol.

NOTE.—Pleadings the length of which exceeds ten folios, must be printed.

Order 19, Rule 5A.

No pleadings must be delivered or amended in the Long Vacation, and the Long Vacation must not be reckoned in computing time within which any pleading must be delivered unless the Court otherwise orders.

Order 57, Rules 4 and 5.

STATEMENT OF DEFENCE.

Further time for the delivery of pleadings can be obtained when required, without any application to the Court; but if the consent is refused, an order must be obtained.

Order 57, Rule 6A.

The statement of claim, unless further time is obtained, must be delivered within six weeks from the date of the entry of appearance.

Order 21, Rule 1.

If the plaintiff makes default in the delivery of any of his pleadings, the defendant may apply to dismiss the action for want of prosecution.

Order 29, Rule 1.

The defendant's solicitor on the 28th day of January, 1881, delivered the defendant's statement of defence to the plaintiff's solicitor, as follows :—

(Title.)

STATEMENT OF DEFENCE.

Dated and delivered the 28th day of January, 1881, by Mr. K. L., of Albion Chambers, in the city and county of Bristol, solicitor for the defendant.

1. *The Bill of Exchange mentioned in the statement of claim was drawn and accepted under the circumstances hereinafter mentioned, and except as hereinafter mentioned there never was any consideration for the acceptance or payment thereof by the defendant.*

2. *Shortly before the acceptance of the said bill it was agreed between the said A. Z., the drawer thereof, and the defendant, that the said A. Z. should sell and deliver to the defendant, free on board ship at the port of Bristol, 1000 tons of coal during the month of October, 1880, and that the defendant should pay for the same by accepting the said A. Z.'s draft for £100 at three months.*

3. *The said A. Z. accordingly drew upon the defendant, and the defendant accepted, the Bill of Exchange now sued upon.*

4. *The defendant did all things which were necessary to entitle him to delivery by the said A. Z. of the said 1000 tons of coal under his said contract, and the time for delivery has long since*

elapsed, but the said A. Z. never delivered the same or any part thereof, but has always refused to do so, whereby the consideration for the defendant's acceptance has wholly failed.

5. The plaintiff first received the said bill, and it was first indorsed to him after it was overdue.

6. The plaintiff never gave any value or consideration for the said bill.

7. The plaintiff took the said bill with notice of the facts stated in the second, third, and fourth paragraphs hereof.

NOTE.—The statement of defence, unless further time is obtained, must be delivered within eight days from the date of the delivery of the statement of claim,

Order 22, Rule 1.

If the defendant makes default in the delivery of any of his pleadings, the plaintiff may sign judgment.

Order 29, Rule 2.

The plaintiff's solicitor on the 31st day of January, 1881, delivered the plaintiff's reply to the defendant's solicitor, as follows :—

(Title.)

REPLY.

1. The plaintiff joins issue upon the defendant's statement of defence.

2. The plaintiff gave value and consideration for the said bill in manner following, that is to say, on the 21st day of December, 1880, A. Z., the drawer thereof, was indebted to the plaintiff in the sum of £60 for coal. On that day he gave the plaintiff an order for coal to the value of £100, which last-mentioned coal has since been delivered by the plaintiff to him. And at the time of the order for such last-mentioned coal it was agreed between him and the plaintiff, and the order was received upon the terms, that he should endorse and hand over to the plaintiff the Bill of Exchange sued upon, together with various other securities on account of the said previous balance of £60, and the said sum of £100, the price of the coal so ordered on that day. The said securities, including

the bill sued upon, were thereupon on the same day indorsed and handed over by him to the plaintiff.

Delivered the 31st day of January, 1881.

E. F. of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

To the defendant or his solicitor.

NOTE.—The reply must, unless further time is obtained, be delivered within three weeks from the date of the delivery of the statement of defence.

Order 24, Rule 1.

No pleading except joinder of issue may be delivered after reply except by leave of Court, and such pleading must be delivered within four days from delivery of reply unless further time is obtained.

Order 29, Rules 2 and 3.

The plaintiff's solicitor on the 1st day of February, 1881, issued a summons for discovery of documents in the defendant's possession.

The following is the form :—

(Title.)

Let all parties concerned attend me at my Chambers, Small Street, Bristol, on Monday the 3rd day of February, 1881, at 12 o'clock at noon, on the hearing of an application on the part of the plaintiff that the defendant may within six days from that date answer on affidavit stating what documents are or have been in his possession or power relating to the matters in question in this action, and that the costs of this application be costs in the cause.

Dated the 1st day of February, 1881.

M. N., District Registrar.

Fee paid on }
sealing, 2s. }

This summons was taken out by E. F., of Albion Chambers, Bristol, solicitor for the plaintiff.

To the defendant or his solicitor.

The defendant's solicitor on the 1st day of February, 1881, issued a summons for discovery of documents in plaintiff's possession.

NOTE.—A summons is issued by taking the same, and one copy, to the Registrar's office and procuring his signature to both, and subsequently delivering same to the proper officer at the District Registry Office, who seals and returns the original summons to the solicitor.

A copy of the plaintiff's summons for discovery of documents in the defendant's possession was served on the defendant's solicitor on the 1st day of February, 1881.

A copy of the defendant's summons for discovery of documents in plaintiff's possession was served on the plaintiff's solicitor on the 1st day of February, 1881.

An affidavit of the service of the plaintiff's summons was made on the 1st day of February, 1881.

The following is the form :—

(Title.)

I, G. H., of Albion Chambers, in the city and county of Bristol, clerk to Mr. E. F. of the same place, solicitor, make oath and say as follows :—

I did on Saturday, the 1st day of February, 1881, before the hour of six o'clock in the afternoon, serve Mr. K. L. of Albion Chambers, in the city and county of Bristol, solicitor to the above-named defendant in this action, with a true copy of a summons, a true copy whereof is hereunto annexed, marked "A," by leaving the same at the office of the said Mr. K. L. situate at Albion Chambers aforesaid, with a clerk of the said Mr. K. L. there.

Sworn, &c.

An affidavit of the service of the defendant's summons on the plaintiff's solicitor was made on the 1st day of February, 1881.

NOTE.—An affidavit of the service of a summons is not filed unless the other party does not attend the hearing of the summons, when an order is made *ex parte* on production of the affidavit.

The plaintiff on the 3rd day of February, 1881, obtained an order by consent.

The following is the form :—

(Title.)

Upon hearing the solicitors for the plaintiff and the defendant and by consent,

It is ordered that the defendant do within six days from the 3rd day of February, 1881, answer on affidavit, stating what documents are or have been in his possession or power relating to the matters in question in this action, and that the costs of this application be costs in the cause.

Fee paid on sealing, 3s.	}	<i>Dated the 3rd day of February, 1881.</i> M. N., District Registrar.
-----------------------------	---	---

The defendant on the 3rd day of February, 1881, obtained an order by consent.

NOTE.—An order is signed and sealed in the same way as a summons.

The order for discovery of documents can be obtained at any stage of the proceedings after appearance entered and before action entered for trial.

Order 31, Rule 11.

A party not complying with an order for discovery, is liable to attachment, and also if a plaintiff to have action dismissed, and if a defendant to have defence struck out.

Order 31, Rule 20.

Where any limited time, less than six days from or after any date or event, is appointed or allowed for doing any act or taking any proceeding, Sunday, Christmas Day, and Good Friday shall not be reckoned in the computation of such limited time.

Order 57, Rule 2.

Where the time for doing any act or taking any proceeding expires on a Sunday or other day

on which the offices are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which the offices shall next be open.

Order 57, Rule 3.

A copy of the plaintiff's order was served on the defendant's solicitor on the 3rd day of February, 1881.

A copy of the defendant's order was served on the plaintiff's solicitor on the 3rd day of February, 1881.

The defendant on the 4th day of February, 1881, made his affidavit of documents.

The following is the form :—

(Title.)

I, C. D., of 2, King's Terrace, Clifton, in the city and county of Bristol, the above-named defendant, make oath and say as follows :—

1. I have in my possession or power the documents relating to the matters in question in this action set forth in the first and second parts of the first schedule hereto.

2. I object to produce the documents set forth in the second part of the said first schedule hereto.

3. The ground of my objection to produce the last-mentioned documents is that the same are privileged, being communications between myself and my solicitor, and papers used in the preparation for the defence of this action.

4. I have had, but have not now, in my possession or power, the document relating to the matters in question in this action, set forth in the second schedule hereto.

5. The last-mentioned document was last in my possession or power on the 29th day of September, 1880.

6. The said last-mentioned document was delivered by me on the said 29th day of September, 1880, to A. Z., of 1, King's Place, in the city and county of Bristol, coal merchant.

DISCOVERY OF DOCUMENTS.

7. *According to the best of my knowledge, information and belief, I have not now and never had in my possession, custody or power, or in the possession, custody, or power of my solicitor or agent, solicitors or agents, or in the possession, custody, or power of any other person or persons on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of, or extract from, any such document, or any other document whatsoever relating to the matters in question in this action or any of them, or wherein any entry has been made relative to such matters or any of them, and other than and except the documents set forth in the first and second schedules hereto.*

THE FIRST SCHEDULE BEFORE REFERRED TO.

PART I.

- 1st January, 1881. *Letter from plaintiff to defendant.*
- 2nd January, 1881. *Copy letter from defendant to plaintiff.*
- 7th January, 1881. *Letter from plaintiff's solicitor to defendant.*
- 8th January, 1881. *Copy letter from defendant to plaintiff's solicitor.*

PART II.

- 10th January, 1881. *Copy writ in this action.*
- 11th January, 1881. *Letter from defendant to defendant's solicitor.*
- 19th January, 1881. *Duplicate memorandum of appearance in this action, and copy notice from defendant's solicitor to plaintiff's solicitor.*
- 25th January, 1881. *Statement of claim in this action.*
- 28th January, 1881. *Copy statement of defence in this action.*
- 29th January, 1881. *Letter from defendant to defendant's solicitor.*

1st February, 1881. Copy summons for discovery of documents in defendant's possession.

1st February, 1881. Summons for discovery of documents in plaintiff's possession.

3rd February, 1881. Copy order for discovery of documents in defendant's possession.

3rd February, 1881. Order for discovery of documents in plaintiff's possession.

THE SECOND SCHEDULE BEFORE REFERRED TO.

29th September, 1880, agreement made between A. Z. and defendant.

Sworn, &c.

Fee paid on filing, 2s.	}	This affidavit is filed on behalf of the defendant.
----------------------------	---	--

The defendant's solicitor on the 4th day of February, 1881, filed the defendant's affidavit of documents.

The plaintiff on the 4th day of February, 1881, made his affidavit of documents.

The plaintiff's solicitor on the 4th day of February, 1881, filed the plaintiff's affidavit of documents.

The defendant's solicitor on the 4th day of February, 1881, delivered a notice of the filing of the defendant's affidavit of documents to the plaintiff's solicitor.

The following is the form :—

(Title.)

Take notice that I have this day filed on behalf of the defendant an affidavit by him, of discovery of documents that are or have been in his possession, or power relating to the matters in question in this action.

Dated the 4th day of February, 1881.

K. L., of Albion Chambers, in the city and county of Bristol, solicitor for the defendant.

To the plaintiff or his solicitor.

The plaintiff's solicitor delivered to the defendant's solicitor notice of the filing of the plaintiff's affidavit of documents on the 4th day of February, 1881.

The plaintiff's solicitor on the 5th day of February, 1881, obtained an office copy of the defendant's affidavit of documents.

The defendant's solicitor on the 5th day of February, 1881, obtained an office copy of the plaintiff's affidavit of documents.

The plaintiff's solicitor on the 6th day of February, 1881, delivered to the defendant's solicitor a notice to produce documents in defendant's possession.

The following is the form :—

(Title.)

Take notice that the plaintiff requires you to produce for his inspection the following documents, referred to in the defendant's affidavit of documents, sworn the 4th day of February, 1881.

DESCRIPTION OF DOCUMENTS.

1st January, 1881. *Letter from plaintiff to defendant.*

2nd January, 1881. *Copy letter from defendant to plaintiff.*

7th January, 1881. *Letter from plaintiff's solicitor to defendant.*

8th January, 1881. *Copy letter from defendant to plaintiff's solicitor.*

Dated the 6th day of February, 1881.

E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

To the defendant or his solicitor.

The defendant's solicitor on the 6th day of February, 1881, delivered to the plaintiff's solicitor notice to produce the documents in plaintiff's possession.

NOTE.—If the documents claimed to be privileged include any which the other party wishes to inspect, he can apply for an order for their production, if, after his giving notice to produce such documents for inspection, the deponent refuses to allow him to inspect them,

Order 31, Rule 17.

The defendant's solicitor on the 6th day of February, 1881, delivered to the plaintiff's solicitor notice to inspect documents.

The following is the form :—

(Title.)

Take notice that you can inspect the documents mentioned in your notice of the 6th day of February, 1881, at my office on Monday, the 8th day of February, 1881, between the hours of 12 and 1 o'clock.

Dated the 6th day of February, 1881.

K. L., of Albion Chambers, in the city and county of Bristol, solicitor for the defendant.

To the plaintiff or his solicitor.

The plaintiff's solicitor on the 6th day of February, 1881, delivered to the defendant's solicitor notice to inspect documents.

NOTE.—The notice of inspection must be delivered within two days from the date of the delivery of the notice to produce. If not delivered within that time, the opposite party may apply for an order for inspection.

Order 31, Rule 16.

The plaintiff's solicitor on the 8th day of February 1881, attended at the defendant's solicitor's office and inspected the documents in his possession, and took copies of such as he required.

The defendant's solicitor on the 8th day of February, 1881, attended at the plaintiff's solicitor's office and inspected the documents in his possession, and took copies of such as he required.

The plaintiff's solicitor on the 10th day of February, 1881, delivered to the defendant's solicitor the plaintiff's notice of trial in the following form :—

(Title.)

To the defendant or his solicitor.

Take notice of trial in this action by a judge and jury for the

NOTICE TO PRODUCE.

next assize, to be holden at Bristol in and for the city and county of Bristol.

Dated the 10th day of February, 1881.

E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

NOTE.—The notice of trial must be delivered ten days before the commission day of the assize unless short notice is agreed to be accepted, and then four days is sufficient.

Order 36, Rule 9.

A notice of trial cannot be withdrawn without leave of the Court, unless by consent.

Order 36, Rule 13.

The plaintiff's solicitor on the 12th day of February, 1881, delivered to the defendant's solicitor notice to produce documents in the defendant's possession.

The following is the form :—

(Title.)

Take notice that you are hereby required to produce and show to the Court on the trial of this action all books, papers, letters, copies of letters, and other writings and documents in your custody, possession or power, containing any entry, memorandum, or minute relating to the matters in question in this action, and particularly—

1st January, 1881. Letter from plaintiff to defendant.

7th January, 1881. Letter from plaintiff's solicitor to defendant.

12th February, 1881. Plaintiff's notice to produce.

12th February, 1881. Plaintiff's notice to admit.

Dated the 12th day of February, 1881. Yours, &c.

E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

To the defendant or his solicitor.

The defendant's solicitor on the 12th day of February, 1881, delivered notice to produce documents in the plaintiff's possession to the plaintiff's solicitor.

NOTE.—If a plaintiff or defendant served with notice to produce, fails to produce the documents mentioned in the notice or any of them, secondary evidence may be given of their contents, and after proof of their being in his possession has been given. *A.-G. v. Le Merchant*, 2 T. R. 201, n.

The plaintiff's solicitor, on the 12th day of February, 1881, delivered to the defendant's solicitor a notice to admit the documents in the plaintiff's possession.

The following is the form :—

(Title.)

Take notice that the plaintiff in this action proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant, his solicitor or agent, at my office, Albion Chambers, in the city and county of Bristol, on Tuesday the 16th day of February, 1881, between the hours of 12 at noon and 2 in the afternoon, and the defendant is hereby required within forty-eight hours from the last-mentioned hour to admit that such of the said documents as are specified to be originals were respectively written, signed or executed as they purport respectively to have been; that such as are specified as copies are true copies; and such documents as are stated to have been served, sent or delivered, were so served, sent or delivered respectively, saving all just exceptions to the admissibility of all such documents as evidence in this action.

Dated the 12th day of February, 1881.

E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

To the defendant or his solicitor.

ORIGINALS.

Description of Documents.	Dates.
<i>Bill of Exchange the subject of this action.</i>	<i>29th Sep., 1880.</i>

Plaintiff's invoice and cash books and ledger containing entries relating to the transactions relating to the said Bill.

NOTICE TO ADMIT.

Letter from defendant to plaintiff. 2nd January, 1881.
Letter from defendant to plaintiff's solicitors. } 8th January, 1881.

COPIES.

Description of Documents.	Dates.	Original or duplicate served, sent or delivered, when, how and by whom.
<i>Letter from plaintiff to defendant.</i> }	1st January, 1881.	} Sent by post on date.
<i>Letter from plaintiff's solicitor to defendant.</i> }	7th January, 1881.	} Sent by post on date.
<i>The defendant's affidavit of documents in this action.</i> }	4th February, 1881.	} Filed on date.
<i>The plaintiff's affidavit of documents in this action.</i> }	4th February, 1881.	} Filed on date.
<i>The plaintiff's notice to produce in this action.</i> }	12th February, 1881.	{ Served by clerk of plaintiff's solicitor on clerk of defendant's solicitor on date.
<i>The plaintiff's notice to admit in this action.</i> }	12th February, 1881.	{ Served by clerk of plaintiff's solicitor on clerk of defendant's solicitor on date.

The defendant's solicitor, on the 12th day of February, 1881, delivered to the plaintiff's solicitor notice to admit documents in defendant's possession.

An affidavit of the service of the plaintiff's notices to produce and admit was made on the 12th day of February, 1881.

The following is the form :—

(Title.)

I, G. H., of Albion Chambers, in the city and county of Bristol, clerk to Mr. E. F. of the same place, solicitor, make oath and say as follows :—

1. *The documents hereunto annexed, marked respectively " A "*

and "B," are true copies of the plaintiff's notices to produce and admit in this action.

2. I did on the 12th day of February, 1881, before six o'clock in the evening, serve true copies of the said notices to produce and admit upon Mr. K. L. of Albion Chambers aforesaid, solicitor for the above-named defendant, by leaving the same with a clerk of the said Mr. K. L. there.

Sworn, &c.

An affidavit of the service of the defendant's notice to produce and admit was made on the 12th day of February, 1881.

NOTE.—The affidavit of service of notice to produce and admit is not filed unless the service is disputed.

The defendant's solicitor attended at the plaintiff's solicitor's office on the 16th day of February, 1881, and inspected and admitted the documents mentioned in the plaintiff's notice to admit, "saving all just exceptions," with the exception of those he intended to dispute, and subsequently wrote the plaintiff's solicitor a letter to that effect.

The plaintiff's solicitor attended at the defendant's solicitor's office on the 17th day of February, 1881, and inspected and admitted the documents mentioned in the defendant's notice to admit, "saving all just exceptions," except those which he intended to dispute, and subsequently wrote the defendant's solicitor a letter to that effect.

NOTE.—A plaintiff or defendant neglecting or refusing to admit documents after notice to admit will be mulct in the costs of proving such documents, whatever the result of the action may be, unless at the hearing the Court certify that the refusal to admit was reasonable.

Order 32, Rule 2.

The plaintiff's solicitor, on the 18th day of February, 1881, issued a *subpœna ad testificandum* against A. Z., the drawer of the bill sued on.

The following is the form :—

(Title.)

VICTORIA, *by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.*

To A. Z., of 1, King's Place, in the city and county of Bristol, coal merchant,

Greeting. We command you to attend before our Justices assigned to take the Assizes in and for the city and county of Bristol, to be holden at Bristol on Monday the 1st day of March, 1881, at the hour of nine in the forenoon, and so from day to day during the said Assize until the above cause is tried, to give evidence on behalf of the plaintiff.

Fee paid on sealing, 2s. 6d.	}	Witness, Roundell Baron Selborne, Lord High Chancellor of Great Britain, the 18th day of February, in the year of our Lord one thousand eight hundred and eighty-one.
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(On the back of the writ was the following indorsement.)

This writ was issued by E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

The following is the form of the præcipe :—

(Title.)

Subpœna for A. Z. to testify between A. B., plaintiff, and C. D., defendant, on the part of the plaintiff.

E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff, 18th February, 1881.

The plaintiff's solicitor, on the 18th day of February, 1881, issued a *subpœna duces tecum* against the plaintiff's clerk.

The following is the form :—

(Title.)

VICTORIA, *by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith,*

To B. L., of 1, Archer Street, in the city and county of Bristol, coal merchant's clerk,

Greeting. We command you to attend before our Justices assigned to take the Assizes in and for the city and county of Bristol, to be holden at Bristol on Monday, the 1st day of March, 1881, at the hour of nine in the forenoon, and so from day to day during the said Assize, until the above cause is tried, to give evidence on behalf of the plaintiff, and also to bring with you and produce at the time and place aforesaid,

The invoice and cash books and ledger containing entries relating to a Bill of Exchange drawn by A. Z. on C. D. on the 29th day of September, 1881, for £100.

Fee paid on sealing, 2s. 6d.	}	Witness, Roundell Baron Selborne, Lord High Chancellor of Great Britain, the 18th day of February, in the year of our Lord one thousand eight hundred and eighty-one.
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(On the back of the writ was the following indorsement.)

This writ was issued by E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

The following is the form of the præcipe :—

(Title.)

Subpœna for B. L. to testify and produce, between A. B., plaintiff, and C. D., defendant, on the part of the plaintiff.

E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff, 18th February, 1881.

The defendant's solicitor, on the 19th day of February, 1881, issued a *subpœna duces tecum* against A. Z., the drawer of the bill sued on.

NOTE.—A subpœna is issued by delivering the same and the præcipe to the proper officer at the District Registry Office, who seals the subpœna with the seal of the Court and returns it to the solicitor.

The names of three witnesses may be inserted in one subpœna.

Fee paid to witness on service { The plaintiff's *subpœna ad testificandum*
£1 1s. { was served on A. Z. on the 19th day of
February, 1881.

Fee paid to witness on service, { The plaintiff's *subpœna duces tecum* was
10s. 6d. { served on B. L. on the 19th day of February,
1881.

Fee paid to witness on service, { The defendant's *subpœna duces tecum*
£1 1s. { was served on A. Z. on the 20th day of
February, 1881.

NOTE.—A witness served with a subpœna with which a sufficient sum of conduct money to cover his expenses was tendered, is liable to be committed for contempt of Court if he fails to attend the trial. 17 & 18 Vict. c. 34,

An affidavit of the service of the plaintiff's subpœnas was made on the 20th day of February, 1881.

The following is the form :—

(Title.)

I, G. H., of Albion Chambers, in the city and county of Bristol, clerk to Mr. E. F. of the same place, solicitor, make oath and say as follows :—

1. *I did on the 19th day of February, 1881, personally serve A. Z., of 1, King's Place, in the city and county of Bristol, coal merchant, with a true copy of a subpœna, a true copy whereof is hereunto annexed marked "A," which subpœna appeared to me to have been regularly issued out of and under the seal of the Queen's Bench Division of Her Majesty's High Court of Justice in an action at the suit of the above-named plaintiff against the above-named defendant, and dated the 18th day of February, 1881, and marked 1881, B. No. 100, and at the time of such service I handed to the said A. Z. the sum of £1 1s.*

2. *I did on the 19th day of February, 1881, personally serve B. L., of 1, Arches Street, in the city and county of Bristol, coal merchant's clerk, with a true copy of a subpœna, a true copy where-*

of is hereunto annexed, marked "B," which subpoena appeared to me to have been regularly issued out of and under the seal of the Queen's Bench Division of Her Majesty's High Court of Justice in an action at the suit of the above-named plaintiff against the above-named defendant, and dated the 18th day of February, 1881, and marked 1881, B. No. 100, and at the time of such service I handed to the said B. L. the sum of 10s. 6d.

Sworn, &c.

An affidavit of the service of the defendant's subpoena made on the 21st day of February, 1881.

NOTE.—The affidavit of service of subpoenas is not filed unless the service of the subpoena is disputed, or the witness fails to attend the trial.

The plaintiff's solicitor informed the plaintiff on the 25th day of February, 1881, that his attendance at trial would be required.

The plaintiff's solicitor on the 25th February, 1881, procured a jury panel.

The defendant's solicitor on the 26th February, 1881, procured a jury panel.

NOTE.—A jury panel is the official list of jurors summoned to attend the trial, and is procured through London agents, to enable the parties suing or defending to see if there are any persons on the jury interested in the result of the action, and whom they are desirous should be excluded, that a fair trial may be had.

A plaintiff or defendant objecting to any person serving on a jury, must challenge such person's name on the names of the jury being called over.

The plaintiff's solicitor on the 26th day of February, 1881, prepared the brief for the plaintiff.

The following is the form :—

(Title.)

BRIEF FOR THE PLAINTIFF.

Writ issued 10th day of January, 1881, specially endorsed as follows :—

1880, 29th Sep.	<i>Bill of Exchange of this date drawn by A. Z. on and accepted by defendant at 3 months and indorsed by A. Z. to plaintiff for</i>			£100	0	0
	<i>Interest . .</i>				0	2 9
				£100	2	9

STATEMENT OF CLAIM,

Delivered the 25th day of January, 1881, states :—

1. A. Z., of 1, King's Place, in the city and county of Bristol, coal merchant, on the 29th day of September, 1880, drew a Bill of Exchange upon the defendant for £100, payable to the order of the said A. Z. three months after date, and the defendant accepted the same.

2. A. Z. endorsed the said bill to the plaintiff.

3. The said bill became due on the 1st day of January, 1881, and the defendant has not paid it.

The plaintiff claims—

1. The sum of £100 2s. 9d., being the amount of the said bill with interest to the date of the issuing of the said writ.
2. Interest on the said sum of £100 from the 10th day of January, 1881, until payment or judgment.

The plaintiff proposes that this action shall be tried at Bristol.

STATEMENT OF DEFENCE,

Delivered the 28th day of January, 1881, states :—

1. The Bill of Exchange mentioned in the Statement of Claim was drawn and accepted under the circumstances hereinafter men-

tioned, and except as hereinafter mentioned there never was any consideration for the acceptance or payment thereof by the defendant.

2. Shortly before the acceptance of the said bill it was agreed between the said A. Z. the drawer thereof, and the defendant, that the said A. Z. should sell and deliver to the defendant free on board ship, at the port of Bristol, 1000 tons of coal, during the month of October, 1880, and that the defendant should pay for the same by accepting the said A. Z.'s draft for £100 at three months.

3. The said A. Z. accordingly drew upon the defendant, and the defendant accepted the bill of exchange now sued upon.

4. The defendant did all things which were necessary to entitle him to delivery by the said A. Z. of the said 1000 tons of coal under his said contract, and the time for delivery has long since elapsed, but the said A. Z. never delivered the same or any part thereof, but has always refused to do so, whereby the consideration for the defendant's acceptance has wholly failed.

5. The plaintiff first received the said bill, and it was first endorsed to him after it was overdue.

6. The plaintiff never gave any value or consideration for the said bill.

7. The plaintiff took the said bill with notice of the facts stated in the second, third, and fourth paragraphs hereof.

REPLY,

Delivered the 31st day of January, 1881, states :—

1. The plaintiff joins issue upon the defendant's statement of defence.

2. The plaintiff gave value and consideration for the said bill in manner following, that is to say, on the 21st day of December, 1880, A. Z. the drawer thereof was indebted to the plaintiff in the sum of £60 for coal. On that day he gave the plaintiff an order for coal to the value of £100, which last-mentioned coal has since been delivered by the plaintiff to him. And at the time of the order for such last-mentioned coal it was agreed between him and the plaintiff, and the order was received upon the terms that he should endorse and hand over to the plaintiff the Bill of Exchange sued upon, together with various other securities on account of the said previous balance of £60 and the said sum of £100 the price of the coal so ordered on that day. The said securities, including the bill sued upon, were thereupon on the same day endorsed and handed over by him to the plaintiff.

Certain correspondence took place between the plaintiff and defendant, and plaintiff's solicitor and defendant, before the commencement of the action, and a copy of such correspondence accompanies this brief.

Copies of plaintiff's and defendant's notices to admit and produce are also herewith.

CASE.

The plaintiff in this action is a coal merchant carrying on business at 1, King's Terrace, Bristol, and the defendant is a coal merchant carrying on business at Clifton, Bristol.

A. Z., of 1, King's Place, Bristol, coal merchant, had a running account with the plaintiff, and on the 21st day of December, 1880, was indebted to the plaintiff in the sum of £60 for coal, and on that day he gave the plaintiff an order for coal to the value of £100, and this last-mentioned coal was subsequently delivered to him. At the time of the order above referred to it was agreed between him and the plaintiff, and the order was received upon the terms, that he should endorse and hand over to the plaintiff the bill sued on, together with certain other securities, not connected with the bill, on account of the balance of £60 and the order to the value of £100, and the bill sued on was, with the other securities, endorsed and handed to the plaintiff on the same day.

Counsel will observe from the statement of defence that the defendant states the bill was accepted by him on the condition that A. Z., the drawer, should deliver to him free on board ship at the port of Bristol 1000 tons of coal during the month of October, 1880, and that there was no other consideration for his acceptance of the bill; that A. Z. has failed to perform his part of the arrangement, and that the consideration for the acceptance has therefore failed; that the bill was endorsed to the plaintiff after it was overdue; that the plaintiff never gave any value for the bill, and the plaintiff was aware of the arrangement between A. Z. and the defendant, and was aware that A. Z. had failed to carry out his part of such arrangement.

As regards the alleged arrangement between A. Z. and the defendant, it is submitted that, even if any such arrangement existed, it does not affect the plaintiff's right to recover the amount of the bill as against the defendant, as the plaintiff was not aware of the existence of any such arrangement (neither was the bill endorsed to him after it was overdue), and that he is therefore fully entitled to payment of the bill by the defendant.

PROOFS.

Call A. B. To prove

I am the plaintiff in this action.

On the 21st day of December, 1880, A. Z., of 1, King's Place, in the city and county of Bristol, was indebted to me in the sum of £60 for coal, and on that day he gave me an order for coal to the value of £100, and this last-mentioned coal was subsequently delivered to him. At the time of the order above referred to it was agreed between him and myself, and the order was received upon the terms, that he should endorse and hand over to me the bill sued on in this action, together with certain other securities, on account of the balance of £60 and the order to the value of £100, and the said bill was, with the other securities, endorsed and handed by him to me on the same day.

At that time I was not aware of any arrangement between him and the acceptor of the said bill, and the said bill was not at that time overdue.

Call A. Z. To prove

I am a coal merchant carrying on business at 1, King's Place, in the city and county of Bristol.

On the 29th day of September, 1880, the defendant in this action accepted the bill of exchange sued on in this action in my favour.

On the 21st day of December, 1880, I was indebted to the plaintiff in this action in the sum of £60 for coal, and on that day I gave him an order for coal to the value of £100, and this last-mentioned coal was subsequently delivered to me. At the time of the order above referred to, it was agreed between him and myself, and the order was received upon the terms, that I should endorse and hand over to him the bill sued on in this action together with certain other securities on account of the balance of £60 and the order to the value of £100, and the said bill was, with the other securities, endorsed and handed by me to him on the same day. The said bill was not at that time overdue.

Call B. L. To prove

I am clerk and cashier to the plaintiff in this action.

The copy invoice in the plaintiff's invoice book dated 21st December, 1880, and addressed to A. Z., of 1, King's Place, in the city and county of Bristol, is in my handwriting, and the coal of the value of £100 referred to in such invoice was dispatched by me to the said A. Z. on the said 21st December, 1880. The entry in the plaintiff's cash-book made on the 1st January, 1881, and

the entry in the plaintiff's ledger made on the 1st January, 1881, relating to the bill sued on in this action, are in my handwriting and were made by me.

The defendant's solicitor on the 26th day of February, 1881, prepared the brief for the defendant.

Fee paid to counsel on de- livery of brief, £10 10s.	{	The plaintiff's solicitor on the 27th day of February, 1881, delivered the brief for the plaintiff to counsel.
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Fee paid to coun- sel on delivery of brief, £10 10s.	{	The defendant's solicitor on the 27th day of February, 1881, delivered the brief for the defendant to counsel.
--	---	--

Fee paid to counsel for con- sultation, £1 1s.	{	The plaintiff's solicitor on the 28th day of February, 1881, had a consultation with the plaintiff's counsel.
--	---	---

Fee paid to counsel for con- sultation, £1 1s.	{	The defendant's solicitor on the 28th day of February, 1881, had a consultation with the defendant's counsel.
--	---	---

The plaintiff's solicitor on the 1st day of March, 1881, entered the action for trial.

NOTE.—An action is entered for trial, by delivering two copies of the whole of the pleadings to the Judge's Associate, at the Judge's Associate's room at the place where the assizes are held, on commission day.
Order 36, Rule 17A.

The plaintiff's solicitor on the 1st day of March, 1881, obtained a cause list.

NOTE.—A cause list is obtained of the Judge's Associate when the action is entered for trial.

The plaintiff's solicitor on the 28th day of February, 1881, apprized the plaintiff and his witnesses when the action would be most likely reached.

The action came on for trial on the 3rd day of March, 1881.

The plaintiff's counsel opened the pleadings, and called the plaintiff's witnesses.

The defendant's counsel replied, and called the defendant's witnesses.

The plaintiff's counsel addressed the jury.

The defendant's counsel addressed the jury.

The Judge summed up the evidence.

The jury found a verdict for the plaintiff for the full amount claimed.

The Judge gave judgment for the plaintiff for the full amount claimed, and costs.

The plaintiff's solicitor on the 4th March, 1881, obtained the certificate of result of trial.

The following is the form:—

(Title.)

I certify that this action was tried before the Honourable Mr. Justice W. X. and a common jury, of the city and county of Bristol, on the 3rd day of March, 1881.

The jury found a verdict in favour of the plaintiff for £100 17s. Od.

The Judge ordered that judgment be entered for the plaintiff for (£100 17s. Od.) one hundred pounds, seventeen shillings, and costs of suit.

W. Z.,

Associate, Western Circuit.

NOTE.—A certificate of result of trial is prepared by and obtained from the Judge's Associate at any time after the trial.

The plaintiff's solicitor on the 5th day of March, 1881, prepared the plaintiff's bill of costs.

The following is the form:—

(Title.)

PLAINTIFF'S COSTS.

1881.		£	s.	d.
Jan. 7.	Letter before action	0	3	6
10.	Instructions to sue	0	6	8
	Carried forward	£0	10	2

		£	s.	d.
1881.	<i>Brought forward</i>	0	10	2
Jan. 10.	<i>Writ and copy</i>	0	6	8
10.	<i>Special indorsement</i>	0	5	0
10.	<i>Paid sealing</i>	0	5	0
10.	<i>Copy for service</i>	0	2	0
11.	<i>Service</i>	0	5	0
16.	<i>Affidavit of service and oath</i>	0	6	6
16.	<i>Attending filing</i>	0	3	4
16.	<i>Paid filing</i>	0	2	0
3/6 19.	<i>On receiving notice of appearance, letter acknowledging receipt</i>	0	3	6
25.	<i>Instructions for statement of claim</i>	0	13	4
25.	<i>Drawing same</i>	0	10	0
25.	<i>Copy for service, folios 3</i>	0	1	0
25.	<i>Attending to deliver</i>	0	3	4
28.	<i>Perusing defence</i>	0	6	8
31.	<i>Instructions for reply</i>	0	6	8
31.	<i>Drawing same</i>	0	5	0
31.	<i>Copy for service, folios 3.</i>	0	1	0
31.	<i>Attending to deliver</i>	0	3	4
Feb. 1.	<i>Summons for discovery of documents, copy, and service</i>	0	8	6
3.	<i>Attending same.</i>	0	6	8
3.	<i>Drawing order, copy, and service</i>	0	9	6
3.	<i>Attending defendant's summons for dis- covery of documents</i>	0	6	8
5.	<i>Paid for office copy, defendant's affidavit</i>	0	4	0
5.	<i>Instructions for affidavit of documents</i>	0	6	8
5.	<i>Drawing same, folios 12.</i>	0	12	0
5.	<i>Ingrossing</i>	0	4	0
5.	<i>Attending deponent to be sworn</i>	0	6	8
5.	<i>Paid oath</i>	0	1	6
5.	<i>Attending filing</i>	0	3	4
5.	<i>Paid</i>	0	2	0
5.	<i>Notice of filing and service</i>	0	4	0
6.	<i>Notice to defendant to produce documents for inspection and service</i>	0	4	0
6.	<i>Notice to defendant with appointment for inspection and service</i>	0	4	0
8.	<i>Attending and inspecting documents and bespeaking copies</i>	0	6	8
3/6	<i>Carried forward</i>	£9	9	8

COSTS.

33

		£	s.	d.
3/6	1881. Brought forward	9	9	8
Feb.	8. Paid for copies, folios 6	0	2	0
	8. Attending and producing documents	0	6	8
	10. Notice of trial and service	0	4	0
	12. Notice to produce, copy and service	0	7	6
	12. Notice to admit, copy and service	0	7	6
	12. Perusing defendant's notice to produce	0	6	8
	12. Perusing defendant's notice to admit	0	6	8
	12. Attending, producing documents in plain- tiff's possession	0	6	8
	17. Attending, admitting documents in defend- ant's possession	0	6	8
	17. Writing defendant's solicitor, stating what documents the plaintiff would admit	0	3	6
	18. Subpœna ad testificandum	0	6	8
	18. Paid sealing	0	2	6
	18. Copy for service	0	1	0
	18. Service	0	5	0
3/4	18. Subpœna duces tecum	0	3	4
2/6	18. Paid sealing	0	2	6
1/-	18. Copy for service	0	1	0
5/-	18. Service	0	5	0
	25. Attending plaintiff, informing him his attendance would be required at trial	0	3	4
	25. Attending for jury panel and paid	0	4	4
	26. Instructions for brief and attending wit- nesses, taking their evidence	2	2	0
	26. Drawing brief, folios 18.	0	18	0
	26. Copy pleadings in brief, folios 13	0	4	4
	26. Copy for counsel, folios 31	0	10	4
	26. Copy plaintiff's notices to produce and admit	0	2	0
	26. Copy defendant's notices to produce and admit	0	2	0
	26. Copy correspondence, folios 8	0	2	8
	27. Attending counsel with brief	0	6	8
	27. Paid his fee and clerk	11	15	0
	27. Attending, fixing consultation	0	6	8
	28. Attending consultation	0	13	4
	28. Paid counsel's and clerk's fee	1	3	6
March	1. Attending, entering action for trial	0	6	8
15/4	Carried forward	£32	15	4
		c 3		

		£	s.	d.
15/4				
1881	<i>Brought forward</i>	32	15	4
March 1.	<i>Paid</i>	1	0	0
1.	2 copies pleadings for use at trial, folios 26	0	8	8
1.	<i>Paid for cause list</i>	0	1	0
1.	<i>Writing 3 letters to witnesses, apprizing them when action would probably be reached</i>	0	9	6
2.	<i>Attending court, but cause not reached</i>	0	10	0
3.	<i>Attending court, action tried</i>	2	2	0
3.	<i>Clerk also engaged</i>	0	10	6
3.	<i>Paid common jury fees</i>	0	8	0
3.	<i>Paid sheriff's fee</i>	0	10	6
4.	<i>Attending, for certificate of result of trial</i>	0	3	4
4.	<i>Paid</i>	1	1	0
4.	<i>Paid Mr. A. Z., of Bristol, merchant, for 2 days' attendance</i>	2	2	0
4.	<i>Paid Mr. B. L., of Bristol, merchant's clerk, for 2 days' attendance</i>	1	1	0
5.	<i>Drawing bill of costs and copy, folios 30</i>	0	17	6
5.	<i>Copy for defendant's solicitor</i>	0	8	9
6.	<i>Notice of taxation and service</i>	0	4	0
6.	<i>Drawing and engrossing affidavit of increase, folios 9</i>	0	12	0
6.	<i>Attending to be sworn</i>	0	6	8
6.	<i>Paid</i>	0	1	6
6.	<i>Copy, affidavit for defendant's solicitor</i>	0	3	0
10.	<i>Attending taxing</i>	0	6	8
10.	<i>Drawing judgment</i>	0	3	4
10.	<i>Attending to enter</i>	0	6	8
10.	<i>Paid</i>	0	10	0
10.	<i>Attending, filing affidavit of increase</i>	0	3	4
10.	<i>Paid</i>	0	2	0
10.	<i>Copy, pleadings to file</i>	0	4	4
10.	<i>Term fee</i>	0	15	0
		£48	7	7
<i>Taxed off.</i>		0	15	4
		£47	12	3
<i>Paid taxing</i>		0	12	0
15/4		£48	4	3

The plaintiff's solicitor on the 6th day of March, 1881, made an appointment with the registrar to tax the plaintiff's costs.

NOTE.—An appointment to tax costs is made by attending at the registrar's chambers and ascertaining what time will suit him to tax, and leaving with him a copy of the bill of costs.

The plaintiff's solicitor on the 6th day of March, 1881, prepared the affidavit of increase.

The following is the form :—

(Title.)

I, E. F., of Albion Chambers, in the city and county of Bristol, solicitor, make oath and say as follows :—

1. *I had the personal management of the above action on the part of the plaintiff.*

2. *I caused a brief to be delivered to Mr. L. P. and I paid or caused to be paid therewith to the said Mr. L. P. the sum of £10 10s.*

3. *I caused a subpoena ad testificandum to be issued and served on A. Z., of 1, King's Place in the city and county of Bristol, coal merchant, and I paid or caused to be paid therewith the sum of £1 1s.*

4. *I caused a subpoena duces tecum to be issued and served on B. L., of 1, Arches' Street in the city and county of Bristol, coal merchant's clerk, and I paid or caused to be paid therewith the sum of 10s. 6d.*

5. *The said A. Z. and B. L. were to the best of my knowledge and belief material and necessary witnesses in the said action.*

6. *The action was tried at the last Assizes holden at the city and county of Bristol. The Commission day was on the 1st day of March, 1881, and this action was tried on the 3rd day of March, 1881.*

7. *The said A. Z. and B. L. were both called as witnesses on behalf of the plaintiff in this action, and I paid or caused to be paid to the said A. Z.*

the sum of £1 1s., and to the said B. L. the sum of 10s. 6d. in addition to the first-mentioned sums of £1 1s., and 10s. 6d. for their expenses in waiting for and attending the said trial.

8. *The said A. Z. and B. L. were necessarily absent from their places of business for the space of two days.*

9. *The trial of this action resulted in a verdict in favour of the plaintiff, and I paid or caused to be paid the sum of £1 on entering action for trial, and 1s. for Cause list and £1 for certificate of result of trial, and 10s. 6d. for sheriff's fee and 8s. for common jury fees.*

Fee paid on filing,
2s.

Sworn, &c.

The plaintiff's solicitor on the 6th day of March, 1881, delivered a copy of the affidavit of increase, and a copy of the bill of costs, to the defendant's solicitor, with notice to tax endorsed.

The following is the form :—

(Title.)

To the defendant or his solicitor.

Take notice that I shall attend to tax the within costs on Monday the 10th day of March, 1881, at 11 o'clock in the forenoon.

Dated the 6th day of March, 1881.

E. F., of Albion Chambers in the city and county of Bristol, solicitor for the plaintiff.

NOTE.—One day's notice at the least of taxing costs, together with a copy of the bill of costs and affidavit of increase, must be given by the solicitor of the party whose costs are to be taxed, to the other party or his solicitor.

Rule 59. Hilary Term, 1853.

The plaintiff's and defendant's solicitors attended at the registrar's chambers on the 10th day of March, 1881.

'The registrar taxed the costs.

The registrar endorsed his certificate of taxation on the bill of costs.

The following is the form :—

Taxed and allowed at £48 4s. 3d.

M. N.,
District Registrar, 10th March, 1881.

The plaintiff's solicitor filed the plaintiff's bill of costs and affidavit of increase at the District Registry on the 10th day of March, 1881.

The plaintiff's solicitor on the 10th day of March, 1881, signed judgment against the defendant.

The following is the form :—

(Title.)

3rd March, 1881.

The action on the 3rd day of March, 1881, having been tried before the Honourable Mr. Justice W. X., and a common jury of the city and county of Bristol, and the jury having found a verdict in favour of the plaintiff for £100 17s. 0d., and the said Mr. Justice W. X. having ordered that judgment be entered for the plaintiff for £100 17s. 0d. and costs of suit : Therefore it is adjudged that the plaintiff recover against the defendant £100 17s. 0d., and £48 4s. 3d. for his costs of suit.

Fee paid on }
sealing, 10s. }

Debts £100 17 0
Costs 48 4 3

£149 1 3

NOTE.—A judgment after trial by jury is entered by taking the same and a duplicate thereof, the certificate of result of trial, the bill of costs with certificate of taxation endorsed, the original affidavit of increase, and a copy of the pleadings, to the proper officer at the District Registry Office, who seals and returns the duplicate judgment to the solicitor.

Order 36, Rule 24, and Order 41, Rule 1.

The judgment must always be dated on the day on which it is pronounced.

Order 41, Rule 2.

The plaintiff's solicitor on the 10th day of March, 1881, issued execution against the defendant.

The following is the form :—

(Title.)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To the sheriff of the city and county of Bristol, greeting.

We command you that of the goods and chattels of C. D. in your bailiwick, you cause to be made the sum of £100 17s. Od., and also interest thereon at the rate of £4 per centum per annum, from the 10th day of March, 1881, which said sum of money and interest were lately before us in our High Court of Justice in a certain action, wherein A. B. is plaintiff and C. D. is defendant, by a judgment of our said court, bearing date the 3rd day of March, 1881, adjudged to be paid by the said C. D. to the said A. B., together with certain costs in the said judgment mentioned, and which costs have been taxed and allowed by one of the taxing masters of our said court at the sum of £48 4s. 3d., as appears by the certificate of the said taxing master, dated the 10th day of March, 1881. And that of the goods and chattels of the said C. D. in your bailiwick you further cause to be made the said sum of £48 4s. 3d., together with interest thereon at the rate of £4 per centum per annum, from the 10th day of March, 1881, and that you have that money and interest before us, in our said court, immediately after the execution hereof, to be paid to the said A. B. in pursuance of the said judgment : and in what manner you shall have executed this our writ, make appear to us in our said court immediately after the execution thereof. And have there then this writ.

Witness, Roundell Baron Selborne, Lord High Chancellor of Great Britain, at Westminster, the 10th day of March, in the year of our Lord, one thousand eight hundred and eighty-one.

On the back of the writ was the following endorsement :—

Levy £149 1s. 3d. and £1 10s. for costs of execution, &c., and also interest on £149 1s. 3d. at £4 per centum per annum, from the 10th day

of March, 1881, until payment, besides sheriff's poundage, officers' fees, costs of levying, and all other legal incidental expenses.

This writ was issued by E. F., of Albion Chambers, Bristol, solicitor for the plaintiff.

The defendant is a coal merchant, and resides
 Fee paid on } *at 2, King's Terrace, Clifton, in the city and*
 sealing, 5s. } *county of Bristol, in your bailiwick.*

The following is the form of the præcipe :—

(Title.)

*Seal a writ of *fi. fa.* directed to the Sheriff of the city and county of Bristol, to levy against C. D. the sum of £100 17s. 0d., and interest thereon at the rate of £4 per centum from the 10th day of March, 1881, and £48 4s. 3d. costs to judgment. Judgment dated 3rd day of March, 1881. Taxing master's certificate, dated 10th day of March, 1881.*

Dated this 10th day of March, 1881.

E. F., solicitor for the plaintiff.

NOTE.—A writ of *fi. fa.* is issued by delivering the same, with the præcipe, to the proper officer at the District Registry Office, who seals the writ and returns it to the solicitor.

Fee paid, 7s. The plaintiff's solicitor on the 10th March, 1881, lodged the *fi. fa.* with the under-sheriff.

The sheriff's officers on the 11th March, 1881, took possession of the defendant's effects.

The sheriff's officers on the 17th day of March, 1881, sold the defendant's effects by auction.

NOTE.—The sheriff's officers remain in possession at least five days before offering a defendant's effects for sale.

The under-sheriff on the 20th day of March, 1881, paid the amount of debt, costs, and interest, as endorsed on the *fi. fa.*, to the plaintiff's solicitor.

INTRODUCTION TO PART II.

THIS portion of the book is devoted to a description of sundry miscellaneous proceedings sometimes occurring in the course of an action, or after judgment has been given.

PART II.

PRACTICE, AND FORMS RELATING TO—SUBSTITUTED SERVICE—JUDGMENT BY DEFAULT—SETTING ASIDE APPEARANCE—GARNISHEE ORDER—CHARGING ORDER NISI—INTERROGATORIES—PAYMENT INTO COURT AND NOTICE IN LIEU OF STATEMENT OF CLAIM.

1.—SUBSTITUTED SERVICE.

NOTE.—If a plaintiff is unable to effect personal service of a writ from any cause, the Court may make such order for substituted or other service, or for the substitution of notice for service as may seem just.

Order 19, Rule 2.

The application for the order, which is obtained *ex parte*, must be supported by an affidavit setting forth the facts.

Order 10.

The procedure is as follows :—

A. B., on the 1st January, 1881, issued a writ against C. D. to recover £100, but was unable to effect personal service, through the defendant evading service.

The process-server on the 14th January, 1881, made an affidavit to ground an application for an order for substituted service.

The following is the form :—

(Title.)

I, G. H., of Albion Chambers in the city and county of Bristol, clerk to Mr. E. F., of the same place, solicitor, make oath and say as follows :—

1. Having been instructed by the said Mr. E. F. to serve the above-named defendant personally with a copy of the writ of summons in this action, I did on the 6th day of January, 1881, attend for the purpose of serving such copy at No. 1. King's Place, Clifton, in the city and county of Bristol, being the place of residence of the said defendant, and on inquiring after the said defendant I was informed by a person at No. 1, King's Place, aforesaid, who represented herself to be and whom I believe to have been a servant of the said defendant, that the said defendant was not at home, and I then stated to the said person the nature of my business, and told her that I had called to serve the said defendant with a copy of the said writ, and that I would call again for that purpose at the said place on the 7th day of January, 1881, at 12 o'clock at noon.

2. I did accordingly attend at the said place for the purpose aforesaid at 12 o'clock at noon on the said 7th day of January, 1881, and then saw the said person who represented herself to be and whom I believe to have been a servant of the said defendant, who informed me that the defendant had just left home and would not return that day, and thereupon I again stated to the said person the nature of my business and told her that I would call again for the purpose of seeing the said defendant and serving him with a copy of the said writ at the said place on the 8th day of January, 1881, at 12 o'clock at noon.

3. I did accordingly attend at the said place for the purpose aforesaid at 12 o'clock at noon of the said 8th day of January, 1881, and then

saw the said person who represented herself to be and whom I believe to have been a servant of the said defendant, who informed me that the defendant was at home but would not see me, whereupon I then and there delivered to and left with the said person a true copy of the said writ and requested her to give it to the said defendant immediately she could.

4. I did not on any of the said occasions see the said defendant, and I say that I have done all I possibly could do to serve the said defendant with a true copy of the said writ but I have not been able to do so, and for the reasons aforesaid, I verily believe that the said defendant wilfully has evaded and evades service of the said writ, and keeps out of the way to avoid personal service thereof.

Fee paid on filing,	}	Sworn, &c.
2s.		This affidavit is filed on behalf of the plaintiff.

The plaintiff's solicitor on the 15th day of January, 1881, attended at the registrar's chambers with this affidavit, and the order required. The registrar made the order on the 15th January, 1881.

The following is the form :—

(Title.)

Upon hearing the solicitor for the plaintiff and upon reading the affidavit of G. H.,

It is ordered that service of a copy of this order and a copy of the writ of summons in this action by leaving the same at the said defendant's residence, videlicet No. 1, King's Place, Clifton, in the city and county of Bristol, shall be good and sufficient service of the said writ.

Fee paid on seal-	}	Dated the 15th day of January, 1881.
ing, 2s.		M. N.,

District Registrar.

The affidavit and copy order were filed on the 15th January, 1881.

The copy writ and copy order were left at the defendant's residence on the 16th January, 1881.

An affidavit of the service was made on the 21st January, 1881.

The following is the form :—

(Title.)

I, G. H., of Albion Chambers, in the city and county of Bristol, clerk to Mr. E. F., of the same place, solicitor, make oath and say as follows :—

I did on Wednesday, the 16th January, 1881, serve true copies of an order and a writ of summons, true copies whereof are hereunto annexed, marked respectively "A" and "B" by leaving the same at the residence of the above-named defendant, with a person who represented herself to be and whom I believe to have been a servant of the said defendant, and at the time of such service I produced to her the originals of such order and writ, and requested her to give the said copies to the said defendant.

Sworn, &c.

Fee paid on filing, 2s.	}	<i>This affidavit is filed on behalf of the plaintiff.</i>
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NOTE.—It is not necessary when the service is substituted, that the memo. of service should be endorsed on the writ within three days—

Dymond v. Croft. L. R. 3 Ch. D., 512, C. A.

This affidavit was filed on the 21st January, 1881.

The action then proceeded in the usual way.

2.—JUDGMENT BY DEFAULT.

NOTE.—A defendant not entering an appearance to a specially endorsed writ, the plaintiff may sign final judgment for the amount endorsed on writ, and interest to judgment, and costs, but it is lawful for the Court to set aside or vary such judgment upon such terms as seem just.

Order 13, Rule 3.

The following is the procedure :—

A. B., on the 1st January, 1881, issued a writ against C. D. to recover £100 and interest, and £3 3s. 0d. costs.

The writ was served on the 2nd January, 1881.

The affidavit of service was filed on the 7th January, 1881.

The plaintiff's solicitor filed a request to search for appearance on the 9th January, 1881.

The following is the form :—

(Title.)

Search for appearance herein.

Dated the 9th day of January, 1881.

Fee paid on filing, 1s.	}	E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.
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No appearance having been entered, the plaintiff's costs were taxed on the 9th January, 1881.

The following is the form :—

(Title.)

PLAINTIFF'S COSTS.

E. F., *Plaintiff's solicitor.*

1881, January 9th.	{	Ordinary costs to and including judgment.	{	£4 6s. 0d.
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Taxed and allowed,

Fee paid on filing, 2s.	}	M. N., District Registrar. 9th January, 1881.
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Judgment was signed on the 9th January, 1881.

The following is the form :—

(Title.)

The 9th day of January, 1881.

The defendant not having appeared to the writ of summons therein :

It is this day adjudged, that the plaintiff recover against the said defendant £100 7s. 0d. and costs be taxed.

The above costs have been taxed at £4 6s. 0d. as appears by the District Registrar's certificate, dated the 9th day of January, 1881.

Fee paid on sealing, 10s.	}	Debt adjudged	£100	7	0
	}	Costs		4	6
					0
					<hr/>
					£104 13 0
					<hr/>

NOTE.—Judgment by default is signed by delivering to the proper officer at the District Registry Office the above judgment in duplicate, and the bill of costs, with the certificate of taxation endorsed. The affidavit of service having been filed, the officer seals and returns the duplicate judgment to the solicitor.

NOTE.—A defendant not appearing to a writ not specially endorsed, the plaintiff may, on filing a statement of the particulars of his claim, and an affidavit of service, sign judgment eight days after such filing, in the usual way.

Order 13, Rule 5.

The statement should be in the following form :—

(Title.)

The following is a statement of the particulars of the plaintiff's claim in respect of the cause of action stated in the endorsement upon the writ of summons herein.

(Here insert full particulars of claim.)

Dated and filed the 1st day of January, 1881, by E. F., of Albion Chambers, Bristol, solicitor for the plaintiff.

3. —SETTING ASIDE APPEARANCE.

NOTE.—Where the defendant appears to a writ of summons specially endorsed, the plaintiff may on affidavit made by himself or any other person who can swear positively to the debt or cause of action, verifying the cause of action, and stating

that in his belief there is no defence to the action, call on the defendant to show cause why the plaintiff should not be at liberty to sign final judgment for amount endorsed on writ, with interest if any and costs. A copy of the affidavit must accompany the summons or motion. The Court may thereupon, unless the defendant by affidavit or otherwise satisfy the Court that he has a good defence to the action on the merits, or disclose such facts as may be deemed sufficient to entitle him to defend, make an order for the plaintiff to have judgment.

Order 14, Rule 1a.

The following is the procedure :—

A. B. on the 1st January, 1881, issued a writ against C. D. to recover £100 and interest and costs. The writ was served on the 2nd January, 1881. The affidavit of service was filed on the 7th January, 1881.

The appearance was entered on 8th January, 1881. The plaintiff on the 10th day of January, 1881, made an affidavit in support of summons to set aside appearance.

The following is the form :—

(Title.)

I, A. B., of 5, King's Terrace, in the city and county of Bristol, the above-named plaintiff, make oath and say as follows :—

1. On the 1st day of January, 1881, I caused to be issued out of the Queen's Bench Division of this Honourable Court a writ of summons against the above-named defendant, a true copy whereof is hereunto annexed, marked "A."

2. The said writ was specially endorsed under Order 3, Rule 6, to recover the sum of £100, being the amount due and owing from him to me on a bill of exchange, the particulars of which are given in the endorsement on the said writ, with interest thereon, and interest at the rate of £5 per centum per annum on £96 of the said sum, from the date of the writ, until payment or judgment.

3. *The defendant is justly and truly indebted to me in the said sum of £100, and interest as aforesaid from the date of the writ, and I believe that the appearance entered by him hereto is simply entered for the purpose of delay.*

4. *For the reasons before stated I verily believe the said defendant has no defence to this action.*

Sworn, &c.

Fee paid on filing. 2s.	}	<i>This affidavit is filed on behalf of the plain-</i>
		<i>tiff.</i>

The plaintiff's solicitor on the 10th January, 1881, attended at the registrar's Chambers with this affidavit, and the summons required. The registrar granted the summons on the 10th January, 1881.

The following is the form :—

(Title.)

Let all parties concerned attend me at my chambers, Small Street, Bristol, on Monday the 14th day of January, 1881, at 12 o'clock at noon, on the hearing of an application on the part of the plaintiff, that the plaintiff may sign final judgment in this action for the amount endorsed on the writ, with interest, if any, and costs to be taxed, and that the costs of this application be taxed, and paid by the defendant.

Dated the 10th day of January, 1881.

M. N., District Registrar.

This summons was taken out by E. F., of Albion Chambers, in the city and county of Bristol, plaintiff's solicitor.

Fee paid on sealing, 2s.	}	<i>To the defendant or his solicitor.</i>

The affidavit and copy summons were filed on the 10th January, 1881.

Copies of the summons and affidavit were served on the defendant's solicitor on the 10th January, 1881.

An affidavit of service was made on the 10th January, 1881.

NOTE.—A summons for leave to sign judgment under Order 14, Rule 1A, must be served at least two clear days before the return day.

Order 14, Rule 2.

An order for judgment was made on the 14th January, 1881.

The following is the form :—

(Title.)

Upon hearing the solicitors for the plaintiff and the defendant, and upon reading the affidavit of the plaintiff, filed the 10th day of January, 1881,

It is ordered that the plaintiff may sign final judgment in this action for the amount endorsed on the writ, with interest, if any, and costs to be taxed, and that the costs of this application be taxed, and paid by the defendant.

Fee paid on
sealing, 3s.

Dated the 14th day of January, 1881.

M. N., District Registrar.

The plaintiff's costs were prepared on the 15th January, 1881.

The following is the form :—

(Title.)

Costs of plaintiff under order dated 14th day of January, 1881.

		£	s.	d.
1880.				
Dec. 27.	<i>Letter before action</i>	0	3	6
1881.				
Jan. 1.	<i>Instructions to sue</i>	0	6	8
1.	<i>Writ</i>	0	6	8
1.	<i>Special indorsement</i>	0	5	0
1.	<i>Paid</i>	0	5	0
1.	<i>Copy to serve</i>	0	2	0
2.	<i>Service of Writ</i>	0	5	0
7.	<i>Affidavit of service and oath</i>	0	6	6
7.	<i>Attending filing</i>	0	3	4
7.	<i>Paid filing</i>	0	2	0
	<i>Carried forward</i>	£2	5	8

		£	s.	d.
1881.	<i>Brought forward</i>	2	5	8
Jan. 10.	<i>Instructions for affidavit in support of summons for leave to sign judgment</i>	0	6	8
10.	<i>Drawing same, folios 4</i>	0	4	0
10.	<i>Engrossing</i>	0	1	4
10.	<i>Copy, writ to annex</i>	0	2	0
10.	<i>Marking exhibit</i>	0	1	0
10.	<i>Attending deponent to be sworn</i>	0	6	8
10.	<i>Paid oath and exhibit</i>	0	2	6
10.	<i>Attending filing</i>	0	3	4
10.	<i>Paid filing</i>	0	2	0
10.	<i>Summons for leave to sign judgment copy and service</i>	0	8	6
10.	<i>Copy, affidavit for defendant's solicitor</i>	0	1	4
2/- 10.	<i>Copy, writ to annex</i>	0	2	0
14.	<i>Attending summons, order made</i>	0	6	8
14.	<i>Order, copy and service</i>	0	9	6
19.	<i>Drawing judgment</i>	0	3	4
19.	<i>Attending to sign</i>	0	6	8
19.	<i>Paid</i>	0	10	0
19.	<i>Drawing costs and copy</i>	0	5	0
19.	<i>Notice to tax and service</i>	0	4	0
19.	<i>Attending taxing</i>	0	6	8
19.	<i>Term fee</i>	0	15	0
		£7	13	10
	<i>Taxed off</i>	0	2	0
		£7	11	10
	<i>Paid taxing</i>	0	2	0
		£7	13	10

An appointment to tax was made on the 16th day of January, 1881.

A copy of the plaintiff's bill of costs with notice to tax endorsed was served on the defendant's solicitor on the 16th day of January, 1881.

The costs were taxed on the 19th day of January, 1881.

Judgment was signed on the 19th day of January, 1881.

GARNISHEE ORDER.

The following is the form :—

(Title.)

The 19th day of January, 1881.

The defendant having appeared to the writ of summons herein, and the plaintiff having by the order of Mr. Registrar M. N., dated the 14th day of January, 1881, obtained leave to sign judgment under the Rules of the Supreme Court, Order XIV., Rule 1a, for the amount endorsed on the writ with interest, if any, and costs to be taxed :

It is this day adjudged that the plaintiff recover against the defendant £100 5s. 0d. and costs to be taxed.

The above costs have been taxed and allowed
 Fee paid on } at £7 13s. 10d. as appears by a Master's Certificate, dated the 19th day of January, 1881.
 sealing, 10s. }

4.—GARNISHEE ORDER.

NOTE.—A plaintiff who has obtained judgment may apply for an order to compel the defendant to attend for examination as to what debts are owing to him, and to produce books or documents.

Order 45, Rule 1.

A plaintiff who has obtained judgment may apply for garnishee orders against third parties who are indebted to the defendant, to compel them to pay him sufficient of the moneys owing by them to the defendant to satisfy his debt and costs.

Order 45, Rule 2.

The following is the procedure :—

A. B. issued a writ to recover £50 8s. 6d. and interest and costs, against C. D. on the 1st day of January, 1881.

The writ was served on the 2nd day of January, 1881.

The affidavit of service was filed on the 7th day of January, 1881.

Judgment by default was signed on the 10th day of January, 1881, for £50 10s. and £4 6s. costs.

A summons for the judgment debtor (*i.e.* the defendant), to show cause why he should not be examined as to the debts due to him, was issued on the 1st day of February, 1881.

The following is the form :—

1881. B. No. 1.

In the High Court of Justice,
Queen's Bench Division,
Bristol District Registry.

Between A. B., *Judgment Creditor*,
and
C. D., *Judgment Debtor*.

Let all parties concerned attend me at my Chambers, Small Street, Bristol, on Monday, the 6th day of February, 1881, at 12 o'clock at noon, on the hearing of an application on the part of the judgment creditor that the above-named judgment debtor may attend and be orally examined as to whether any and what debts are owing to him before me at such time and place as I shall appoint, and that the said judgment debtor produce all his books of account, papers, and documents in any way relating to the said debts before me at the time of such examination, and that the costs of this application be costs in the cause.

Dated the 1st day of February, 1881.

M. N., District Registrar.

This summons was taken out by E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the judgment creditor.

Fee paid on
sealing, 2s.

} *To the Judgment debtor, or his solicitor.*

This summons was served on the judgment debtor on the 1st day of February, 1881.

An affidavit of service was made on the 1st day of February, 1881.

An order was made on the 6th day of February, 1881, for the judgment debtor to attend for examination.

The following is the form :—

(Title.)

Upon hearing the solicitors for the judgment creditor and the judgment debtor,

It is ordered that the above-named judgment debtor attend and be orally examined as to whether any and what debts are owing to him before me at such time and place as I shall appoint, and that the said judgment debtor produce all his books of account, papers, and documents in any way relating to the said debts before me at the time of such examination, and that the costs of this application be paid by the judgment creditor.

Fee paid on
sealing, 3s.

} *Dated the 6th day of February, 1881.*
M. N., District Registrar.

The registrar appointed the 13th day of February, 1881, for the examination.

The appointment was endorsed on the back of the order.

The following is the form :—

I appoint Monday next, the 6th day of February, 1881, at 12 o'clock at noon, for the oral examination of the within-named judgment debtor.

M. N., District Registrar,
6th February, 1881.

Fee paid to
judgment debtor,
£1 1s.

} A copy of this order with a copy of the
appointment endorsed on the back was
served on the judgment debtor on the 6th
February, 1881.

NOTE.—A judgment debtor served with an order for his attendance for examination, with which a sufficient sum to cover his expenses has been tendered, and neglecting to comply with such order, may be attached for contempt of Court. But the service must be personal or

have come to the judgment debtor's knowledge.
Mason v. Mugridge, 18 C. B. 642.

The examination of the judgment debtor disclosed a debt due to him, from one B. R., of £100.

The judgment creditor (*i.e.* the plaintiff) made an affidavit in support of a garnishee order against B. R. on the 14th day of February, 1881.

The following is the form :—

(Title.)

I, A. B., of 5, King's Terrace, in the city and county of Bristol, the above-named judgment creditor, make oath and say as follows :—

1. *By a judgment of the Court given in this action and dated the 10th day of January, 1881, it was adjudged that I should recover against the above-named judgment debtor the sum of £50 10s. 0d. and costs to be taxed, and the said costs were by the taxing master's certificate dated the 10th day of January, 1881, allowed at £4 6s. 0d.*

2. *The said judgment still remains unsatisfied to the extent of £54 16s. 0d., and interest amounting to 4s.*

3. *B. R., of 10, King's Terrace, in the city and county of Bristol, coal merchant, is indebted to the judgment debtor in the sum of £100 or thereabouts.*

4. *The said B. R. is within the jurisdiction of this court.*

Sworn, &c.

Fee paid on
filing, 2s.

} *This affidavit is filed on behalf of the judgment creditor.*

The judgment creditor's solicitor attended at the registrar's chambers with this affidavit and the garnishee order *nisi* on the 14th day of February, 1881.

The registrar granted the order *nisi* on the 14th day of February, 1881.

GARNISHEE ORDER.

The following is the form :—

1881. B No. 1.

In the High Court of Justice,
Queen's Bench Division,
Bristol District Registry.

Between A. B., *Judgment Creditor*,
and
C. D., *Judgment Debtor*.
B. R., *Garnishee*.

Upon hearing the solicitor for the judgment creditor, and upon reading the affidavit of A. B., the judgment creditor,

It is ordered that all debts due and owing, or accruing due, from the above-named garnishee to the above-named judgment debtor, be attached to answer a judgment recovered against the said judgment debtor by the above-named judgment creditor in the High Court of Justice on the 10th day of January, 1881, for the sum of £54 16s., on which judgment the said sum of £54 16s. and interest amounting to 4s. remains due and unpaid.

And it is further ordered that the said garnishee or his solicitor attend me at my chambers, Small Street, Bristol, on Monday, the 20th day of February, 1881, at 12 of the clock at noon, on an application by the said judgment creditor that the said garnishee pay the debt due from him to the said judgment debtor, or so much thereof as may be sufficient to satisfy the said judgment, to the said judgment creditor.

And that the costs of this application be paid by the judgment creditor.

Fee paid on
sealing, 3s.

Dated the 14th day of February, 1881.

M. N., *District Registrar.*

See memorandum on back hereof.

The following is the form of the memorandum on the back of the order :—

(Memorandum 17 & 18 Vic. c. 115, ss. 62, 63.)

62. "*Service of an order that debts due or accruing to the judgment debtor shall be attached or notice thereof to the garnishee in such manner as the judge shall direct shall bind such debts in his hands.*"

63. "If the garnishee does not forthwith pay into Court the amount due from him to the judgment debtor, or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due from him to the judgment debtor : or if he does not appear to the summons, then the judge may order execution to issue and it may be sued forth accordingly without any previous writ or process to levy the amount due from such garnishee towards satisfaction of the judgment debt."

A copy of this order was served on the garnishee on the 14th day of February, 1881.

An affidavit of the service was made on the 15th day of February, 1881.

The following is the form :—

(Title.)

I, G. M., of Albion Chambers, in the city and county of Bristol, clerk to Mr. E. F. of the same place, solicitor, make oath and say as follows :—

I did on Tuesday, the 14th day of February, 1881, serve B. R., the above-named garnishee, with a true copy of an order a true copy whereof is hereunto annexed, marked "A.," by delivering the same to the said B. R. personally and at the same time producing to him the original of the said order sealed with the seal of the Court, and marked 1881, B., No. 1.

Sworn, &c.

NOTE.—An affidavit of service of a garnishee order *nisi* is not filed unless the garnishee fails to attend the order, when an order absolute for payment is made *ex parte*.

An order absolute for payment was made on the 20th day of February, 1881.

The following is the form :—

(Title.)

Upon hearing the solicitors for the judgment creditor and the garnishee, and upon reading the affidavit of A. B., the judgment creditor, filed the 14th day of February, 1881, and the order made herein on Tuesday, the 14th day of February, 1881, whereby it was ordered that all debts owing

or accruing due from the said garnishee to the said judgment debtor should be attached to answer a judgment recovered against the said judgment debtor by the above-named judgment creditor in the High Court of Justice on Monday, the 10th day of January, 1881, for the sum of £54 16s. on which judgment the said sum of £54 16s. and interest amounting to four shillings remained due and unpaid,

It is ordered that the said garnishee do forthwith pay the said judgment creditor the debt due from him to the said judgment debtor or so much thereof as may be sufficient to satisfy the said judgment debt, and that in default thereof execution may issue for the same.

And that the costs of this application be paid by the judgment creditor.

Fee paid on
sealing, 3s.

Dated the 20th day of February, 1881.

M. N., District Registrar.

A copy of this order was served on the garnishee on the 20th day of February, 1881.

An affidavit of service was made on the 20th day of February, 1881.

The following is the form :—

(Title.)

I, K. L., of Albion Chambers in the city and county of Bristol, clerk to Mr. E. F., of the same place, solicitor, make oath and say as follows :—

I did on Monday, the 20th day of February, 1881, serve B. R., the above-named garnishee, with a true copy of an order, a true copy whereof is hereunto annexed, marked "A.," by delivering the same to the said B. R. personally, and at the same time producing to him the original of the said order sealed with the seal of the Court and marked 1881, B., No. 1.

Sworn, &c.

Fee paid on
filing, 2s.

This affidavit is filed on behalf of the judgment creditor.

The affidavit of service was filed on the 24th day of February, 1881.

Execution was issued on the 28th day of February, 1881.

The following is the form :—

(Title.)

VICTORIA, *by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith,*

To the sheriff of the city and county of Bristol, greeting.

We command you that of the goods and chattels of B. R. in your bailiwick you cause to be levied £54 16s. being part of the amount of a debt due from the said B. R. to the said C. D. heretofore attached in the hands of the said B. R. by an order of Mr. Registrar M. N., one of the Registrars of the Bristol District Registry of our High Court of Justice, dated the 20th day of February, 1881, pursuant to the statutes and rules in such case made, to satisfy £54 16s. which A. B. lately before us in our High Court of Justice recovered against C. D. in a certain action wherein A. B. is plaintiff and C. D. is defendant, by a judgment of our said Court bearing date the 10th day of January, 1881, whereby it was adjudged that the said C. D. should pay unto the said A. B. the sum of £50 10s., together with interest thereon after the rate of £4 per centum per annum, together also with certain costs in the said judgment mentioned, and which costs have been taxed and allowed by one of the taxing masters of our said Court at the sum of £4 6s., as appears by the certificate of the said taxing master dated the 10th day of January, 1881, and that you have that sum of £54 16s. and interest before us in the Queen's Bench Division of our High Court of Justice immediately after the execution hereof to be rendered to the said A. B. in satisfaction as aforesaid. And in what manner you shall have executed this our writ make appear to

CHARGING ORDER NISI.

us in our said Court immediately after the execution hereof and have there then this writ.

Fee paid on sealing, 5s.	}	<i>Witness, Roundell Baron Selborne, Lord High Chancellor of Great Britain, the 28th day of February in the year of Our Lord one thousand eight hundred and eighty-one.</i>
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On the back was the following endorsement :—

Levy £54 16s. and £1 10s. for costs of execution, &c., and also interest on £54 16s. at £4 per centum per annum from the 10th day of January, 1881, until payment, besides sheriff's poundage, officers' fees, costs of levying, and all other legal incidental expenses.

This writ was issued by E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the judgment creditor.

The garnishee is a coal merchant, and resides at 10, King's Terrace, in the city and county of Bristol in your bailiwick.

The præcipe was in the usual form.

5.—CHARGING ORDER NISI.

NOTE.—Charging orders are obtainable after judgment. 1 & 2 Vic. c. 110, s. 14.

The order *nisi* is obtained *ex parte* and without notice to judgment debtor. 1 & 2 Vict. c. 110, s. 115.

The following is the procedure :—

A. B. issued a writ to recover £100 2s. 3d. and interest and costs against C. D. on the 1st January, 1881.

Judgment was signed by default on the 10th day of January, 1881, for £100 5s. and £4 6s. costs.

The defendant being the holder of shares in a company.

A. B. made an affidavit in support of an application for a charging order *nisi* on the 20th day of January, 1881.

The following is the form :—

(Title.)

I, A. B., of 5, King's Terrace, in the city and county of Bristol, the above-named plaintiff, make oath and say as follows :—

1. The above-named defendant is justly and truly indebted to me in the sum of £104 11s. upon and by virtue of a judgment signed in this action on the 10th day of January, 1881, and whereby it was adjudged that I should recover against the said defendant £100 5s. and costs to be taxed, and the said costs were by the taxing master's certificate dated the 10th day of January, 1881, allowed at £4 6s.

2. There are ten shares now standing in the name of the defendant in his own right, in a certain public company in England called the Grand Trunk Company.

3. I am informed, and verily believe, that the said defendant is beneficially interested therein and entitled thereto, and to the dividends payable thereon to his own use and benefit.

Fee paid on
filing, 2s.

} *Sworn, &c.*

} *This affidavit is filed on behalf of the plaintiff.*

The plaintiff's solicitor attended at the registrar's chambers with this affidavit and the charging order *nisi* in duplicate on the 20th day of January, 1881.

The registrar granted the order on the 20th day of January, 1881.

The following is the form :—

(Title.)

Upon hearing the solicitor for the plaintiff and upon reading the affidavit of the plaintiff, whereby it appears that the above-named defendant is justly and truly indebted to the plaintiff upon and by virtue of a judgment signed in this action on the 10th day of January, 1881, and whereby it was adjudged that the plaintiff should

INTERROGATORIES.

recover against the said defendant £100 5s. and costs to be taxed, and the said costs were by the taxing master's certificate dated the 10th day of January, 1881, allowed at £4 6s. That there are ten shares now standing in the name of the defendant in his own right, in a certain public company in England called the Grand Trunk Company, and that the plaintiff verily believes that the said defendant is beneficially interested therein, and to the dividends payable thereon to his own use and benefit,

It is ordered that unless sufficient cause be shown to the contrary before me, on Monday, the 27th day of January, 1881, at 12 o'clock at noon, the defendant's interest in the ten shares in the Grand Trunk Company so standing as aforesaid, shall, and that it in the meantime do, stand charged with the payment of the above-mentioned amount due on the said judgment.

Fec paid on
sealing, 3s.

Dated the 21st day of January, 1881.

M. N., District Registrar.

A copy of this order was served on the defendant on the 20th day of January, 1881.

A copy of this order was served on the Grand Trunk Company on the 20th day of January, 1881.

NOTE.—It would appear from Order 35, Rule 4, that the order absolute must be obtained in London, as Order 35, Rule 3A refers only to orders *nisi*.

6.—INTERROGATORIES.

NOTE.—A plaintiff from date of delivery of statement of claim up to close of pleadings, and a defendant from date of delivery of defence up to close of pleadings, without order, and either party at any time by leave, may deliver interrogatories to the opposite party. If such interrogatories require to be answered by more than

one person, a note must be written at the foot, stating what interrogatories each party is required to answer. Provided that no party shall deliver more than one set of interrogatories to the same party, without an order for that purpose.

Order 31, Rule 1.

A party failing to comply with an order for interrogatories is liable to attachment, and also if a plaintiff to have action dismissed for want of prosecution, and if a defendant to have defence struck out.

Order 31, Rule 20.

Interrogatories and answers to interrogatories, if more than ten folios in length, must be printed.

Order 31, Rule 7A.

The procedure after pleadings closed is as follows :—

A. B., on the 1st day of January, 1881, issued a writ against C. D. to recover £100 and costs.

Appearance was entered on the 10th day of January, 1881.

Statement of claim delivered on the 20th day of January, 1881.

Statement of defence delivered on the 28th day of January, 1881.

Reply delivered on the 1st day of February, 1881.

The plaintiff's solicitor on the 6th day of February, 1881, issued a summons for leave to administer interrogatories.

The following is the form :—

(Title.)

Let all parties concerned attend me at my chambers, Small Street, Bristol, on Monday, the 11th day of February, 1881, at 12 o'clock at noon, on the hearing of an application on the part of the plaintiff, that the plaintiff may be at

INTERROGATORIES.

liberty to deliver to the defendant interrogatories in writing, and that the said defendant do within seven days answer the interrogatories in writing by affidavit, and that the costs of and incidental to this application may be costs in the cause.

Dated the 6th day of February, 1881.

M. N., District Registrar.

Fee paid on
sealing, 2s.

This summons was taken out by E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

To the defendant or his solicitor.

A copy of this summons was served on defendant's solicitor on the 6th day of February, 1881.

An order was made on this summons on the 8th day of February, 1881.

The following is the form :—

(Title.)

Upon hearing the solicitors for the plaintiff and the defendant,

It is ordered that the plaintiff be at liberty to deliver to the defendant interrogatories in writing, and that the said defendant do within seven days from the date of this order answer the interrogatories in writing by affidavit, and that the costs of, and incidental to this application be costs in the cause.

Fee paid on
sealing, 3s.

Dated the 8th day of February, 1881.

M. N., District Registrar.

A copy of this order was served on the defendant's solicitor, on the 9th day of February, 1881, with the interrogatories.

The following is the form :—

(Title.)

Interrogatories on behalf of the above-named plaintiff for the examination of the above-named defendant.

1. *Did not, &c.* (Here the questions required to be answered were inserted, each question being numbered.)

Delivered the 9th day of February, 1881.

E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

To the defendant or his solicitor.

The defendant's affidavit in answer to these interrogatories was filed on the 15th day of February, 1881.

The following is the form :—

(Title.)

The answer of the above-named defendant to the interrogatories for his examination by the above-named plaintiff.

In answer to the said interrogatories, I, C. D., of 1, King's Terrace, in the city and county of Bristol, the above-named defendant, make oath and say as follows :—

1. *That, &c.* (Here all the answers were inserted, each answer being numbered.)

Sworn, &c.

Fee paid on
filing, 2s.

} *This affidavit is filed on behalf of the defendant.*

A copy of this affidavit was served on the plaintiff's solicitor on the 15th day of February, 1881.

The action then proceeded in the usual way.

7.—PAYMENT INTO COURT.

NOTE.—Where any action is brought to recover a debt or damages any defendant may at any time after service of writ and before or at time of delivery of his defence or by leave of Court at any later time, pay into Court a sum

of money by way of satisfaction or amends. Payment into Court shall be pleaded in the defence, and the claim or cause of action in respect of which such payment shall be made shall be specified therein.

Order 30, Rule 1.

If the payment into Court is made before defence delivered, notice must be given to the plaintiff of such payment in.

Order 30, Rule 2.

The following is the procedure when payment made before defence delivered :—

A. B. on the 1st day of January, 1881, issued a writ against C. D. for £100 and costs. Appearance was entered on the 10th day of January, 1881, and £50 paid into Court in satisfaction of the claim.

The following is the form of the receipt :—

(Title.)

Received 10th January, 1881, of the defendant, the sum of £50 in the above action.

M. N., District Registrar.

NOTE.—Money is paid into Court by handing the same to the proper officer at the District Registry Office, who prepares and gives the defendant's solicitor a receipt for the same.

Order 30, Rule 2.

Notice of the payment into Court was given to the plaintiff's solicitor on the 10th day of January, 1881.

The following is the form :—

(Title.)

Take notice that the defendant has this day paid into Court the sum of fifty pounds, and says that that sum is sufficient to satisfy the plaintiff's claim.

Dated the 10th day of January, 1881.

*E. K., of Albion Chambers, in the city and county of Bristol,
solicitor for the defendant.*

To the plaintiff or his solicitor.

This notice was served on the plaintiff's solicitor on the 10th day of January, 1881.

The plaintiff on the 12th day of January, 1881, signed an authority for his solicitor to receive the money out of Court.

The following is the form :—

(Title.)

*I, the undersigned A. B., the above-named plaintiff, hereby
authorise Mr. E. F., of Albion Chambers, in the city and county
of Bristol, my solicitor, to receive out of Court the sum of £50, paid
in in this action on the 10th day of January, 1881.*

Dated the 12th day of January, 1881.

A. B.

The money was paid out of Court to the plaintiff's solicitor on the 13th day of January, 1881.

The following is the form of the receipt—added at the foot of the authority :—

Received the above-mentioned sum of fifty pounds.

E. F., 13th January, 1881.

NOTE.—Money is paid out of Court on production to the proper officer of the authority to receive same, signed by the plaintiff.

The action then proceeded in the usual way.

8.—NOTICE IN LIEU OF STATEMENT OF CLAIM.

NOTE.—Where the writ is specially endorsed, and the defendant has not dispensed with statement of claim, it shall be sufficient for the plain-

66 NOTICE IN LIEU OF STATEMENT OF CLAIM.

tiff to deliver as his statement of claim, a notice to the effect that his claim is that which appears by the endorsement upon the writ, unless the Court shall order him to deliver a further statement. And when the plaintiff is ordered to deliver such further statement, it shall be delivered within such time as by such order shall be limited, and if no time be so limited, then within six weeks from the date of the entry of appearance.

Order 21, Rule 4.

The following is the form of a notice in lieu of statement of claim :—

(Title.)

Notice in lieu of statement of claim, dated and delivered this 1st day of January, 1881, by E. F., of Albion Chambers, in the city and county of Bristol, solicitor for the plaintiff.

The particulars of the plaintiff's complaint herein, and of the relief and remedy to which he claims to be entitled, appear by the endorsement upon the writ of summons.

The plaintiff proposes that this action shall be tried at Bristol.

THE END.

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